

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Statutory Review of the System
for Regulating Rates and Classes
for Market Dominant Products

Docket No. RM2017-3

COMMENTS OF NATIONAL NEWSPAPER ASSOCIATION

(March 20, 2017)

Table of Contents

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| Summary | 2 |
| I. Background | 6 |
| II. It All Has to Be About Sustaining Universal Service | 9 |
| III. Several Objectives are of Greatest Importance to Newspapers..... | 12 |
| A. Objective 3: To maintain high quality service standards established under section 3691.16 | 12 |
| B. Objective 1: To maximize incentives to reduce costs and increase efficiency..... | 21 |
| 1. Opportunities for both the Postal Service and Newspaper Mailers remain | 23 |
| 2. The availability of real data on Within County and newspaper mail is critical if sweeping structural or rate changes are contemplated in the next generation of PAEA | 29 |
| C. Objective 5: Financial sustainability for USPS | 30 |
| IV. Conclusion | 35 |

Summary

Pursuant to Order No. 3673, National Newspaper Association provides its views on the successes and failures of the Postal Accountability and Enhancement Act (PAEA) from the perspective of the nation's community newspapers, which depend upon the mail to deliver news and information to a wide and sometimes sparsely-distributed population across the United States. NNA represents more than 2,000 members, primarily weekly and small daily newspapers. Its typical member newspaper is a weekly publication with a circulation in the range of 2,000-3,000 households. NNA members use all classes of mail, but primarily count on the Periodicals mail class to reach readers.

The PAEA decade has been a rough one for the postal community. NNA's newspapers have possibly suffered more than most, given the importance of timely delivery and the unique distribution of newspaper mail. One might expect an organization of so many seriously-threatened small businesses to argue that PAEA has been a failure. Indeed, NNA suggests a few improvements to the objectives. But overall, NNA argues here that the law has worked. By stabilizing rates, it has enabled mailers to plan for their futures, and has kept universal service in place despite many hazards that had to be negotiated along the way. It would be an error for the Commission to focus primarily upon the Postal Service balance sheet and to attempt to alter PAEA in ways that might drive more mail away faster than it otherwise would go. Rather, a steady and continuous oversight over a recovering system is the correct path.

NNA focuses upon three objectives in order of their importance to its members, and leaves other objectives for later comment.

Objective 3: Service standards. Declining service has damaged newspapers' relationships with subscribers. NNA's internal research shows most of its members have been harmed by the postal service standard changes in the past decade. For the years ahead, NNA believes the solution is to be found in continuous improvement in operations and not in changes in governance, oversight or structure. Better service with continuous improvement has begun in the past few years, and NNA hopes for this heightened management focus to persist. The best oversight is for the Commission to begin to call for and examine actual delivery data for all mail in rural areas so that hidden problems may be uncovered and addressed. Tweaking Objective 3 to incorporate such oversight is possible but NNA believes the existing language already permits such inquiry.

Objective 1: Cost controls and efficiencies. Several elements are missing from the context of the Commission's proposed definition. First, incentives should apply to postal operations as well as to mailers. Second, USPS must be encouraged to think small in its operations as well as large, if universal service is to be preserved. Third, reports that rely upon proxies for cost measurement of Within County mail should be used for general guidance only and not as prescriptions for pricing incentives or penalties.

Most community newspaper mail is already highly-efficient, sorted to carrier route and Delivery Unit entered in the Within County subclass. More robust price signals in several areas are possible. For Outside County mail, delivery to both in-market subscribers and distant subscribers presents challenges for newspaper mailers and USPS because of uncertainties in transportation and plant handling. Solutions including

more efficient container preparation and increased use of Intelligent Mail Barcode – including new bundle barcoding options -- for performance tracking are critical and both rely upon continuous improvement measures already underway by management. Encouraging use of the IMb is important, even if some mail is not automated, so that scans from systems other than automated sorting machines come into focus for the industry and postal operations. Both mailer and postal worker training is an ongoing need, but neither is easily susceptible to measurement by the regulator. Before trusting the various diagnoses to correct costs for Periodicals mail, the Commission should take notice of how little it knows about newspaper mail. NNA believes data on the actual costs of newspapers are so woefully inadequate that NNA cannot suggest metrics to measure the gap accurately, let alone repair it.

Objective 5: Financial sustainability for USPS. The devastation wreaked by PAEA as it mandated prefunding of the Retiree Health Benefit Fund (RHBF) sent the Postal Service into a downward spiral that was accelerated by the Great Recession. The recession has passed and economic recovery is now fully accelerated. The RHBF liabilities should finally be resolved through legislation this year. Although the temptation to lift the price cap to stimulate postal revenues may be presented to the Commission by some stakeholders, that temptation is misguided and should be deferred if not set aside entirely until the enactment of legislation is secured and its effects are known. Community newspapers depend heavily upon the contributions to the origin-entry infrastructure provided by First-Class mail in particular. NNA is concerned that uncapped pricing authority would tempt pricing analysts to trust overly-optimistic forecasting or to overtax mail that it believes is leaving the mailstream anyway, and

thereby accelerate the diversion. Where the under-water Periodicals class is concerned, NNA highlights areas under Objective 3 where inadequate data on Within County mail are available. Dramatic price increases coupled with the service failures of the past decade would threaten publishers' ability to reach readers. Though this newspaper mail may not have viable alternatives, the subscribers have multiple alternatives: they can cancel their subscriptions, and when unhappy with service or prices, they do. Or, they can move to electronic subscriptions when available—taking both the Periodical and the attendant First-Class mail billings out of the mailstream with them.

Other Objectives and Recommendations for Change. NNA does not address all objectives, as it believes other stakeholders in the mailing industry have greater expertise. With respect to the price cap, NNA notes that its members have agreed to support various versions of postal reform legislation that grant a reversion to USPS of a portion of the exigency postage revenue that was rolled out of the rate base in April, 2016. NNA members have supported a one-time Congressionally-mandated increase in a belief that stakeholders must make fair contributions to preserve a viable Postal Service and avoid further devastating service cuts, but NNA members see the adjustment as a rare exception to the price cap and certainly as a one-time exception to Congressional policies of keeping hands off postal prices. NNA has examined some alternatives to the CPI-U based price cap such as those suggested in a recent study of the Office of the Inspector General.¹ But the alternatives are complex and require deeper exploration, should the Commission determine that an examination of alternatives is necessary. Accordingly, NNA seeks the opportunity for further comment

¹ See, Lessons in Price Regulation from International Posts, Report No. RARC-WP-17-003 (Feb. 8, 2017) at: <https://uspsaig.gov/document/lessons-price-regulation-international-posts>.

in this docket after the Commission has considered the comments of various stakeholders.

I. Background.

The decade of PAEA has been a harsh one for the Postal Service, for the mailing industry, for the work force and for the general public. A Postal Service that entered into the decade with optimism instead encountered a period pockmarked by the crushing burden of prefunding employees' retirement benefits, the worst economic downturn since the Great Depression and a communications world sent into digital overdrive by the introduction of the iPhone--and then the subsequent explosion of social media.

The Commission is seeking comments from a mailing industry that believes itself to be at risk in a digital future, with concerns on many fronts. After all, in 2017, no one is the same as they were in 2006 when Congress thought it had fixed the Postal Service forever. All who enter into this deliberation do so with knowledge that this national treasure, the US Postal Service, *could* spiral into dissolution, taking a \$1.3 trillion mailing industry with it, and that steps to try to protect the Postal Service could easily misfire into a jet-propelled decline.

It has indeed been a trying decade. Yet the Postal Service has survived. USPS continues to provide universal service, albeit a slower service than before. Its balance sheet is bathed in red, but much of this debt should never have been imposed and should be reconciled by Congress, and not the ratepayers. To the extent unwarranted obligations appear on the balance sheet, the debts are to the American public who are

the true owners of the institution and these may reasonably be deferred as the economy continues to improve.

The Commission's proper concern should be with operating revenue and costs, and the ability of the system to continue to improve. USPS's controllable incomes of recent months largely indicate that recovery from the crises of the past decade is underway. USPS has neither missed a payroll, nor laid off core workers, which is a happier picture than that shared by much of the mailing industry. Compensation increases for the people who move the mail have continued throughout the period of distress—demonstrating that the Postal Service truly is a critical government function, and not a private company where shareholders might have concern about the balance sheet. An additional act of Congress to retract the burden it imposed in retiree health care prepayment and to integrate Medicare into the benefits system will stabilize USPS to continue to adapt to the changing future.

That is why, as the PRC begins the journey required by PAEA to examine how well the 2006 act of Congress has worked, it seems to this commenter that the proper starting place is not only with the nine objectives and various subsidiary factors in PAEA. The proper place to begin is with the mission of the US Postal Service, where once neither rain, nor snow, nor sleet could hobble delivery, but where the end of delivery of critical goods and information on weekends has been seriously contemplated during the PAEA decade and the elimination of overnight mail service in most of the land is now a reality.

NNA believes that the universal service mission is and has always been the goal of Congress as well as the intention of the Constitution, and that sustained universal service should be the intended destination of this inquiry. A Postal Service that cannot provide such service becomes the auctionable asset of a federal government interested in liquidating liabilities. But a service that adequately serves even sparsely-populated rural America where delivery alternatives do not exist, provides the citizen stakeholders with reliable and understandable services and offers businesses predictable, stable rates and attainable delivery goals is an impregnable institution. Few who wish to defeat it will succeed.

The Commission in Order No. 3673 poses two questions about the objectives and various factors laid out in PAEA. It asks whether the Commission's preliminary definitions of objectives are reasonable and then seeks metrics to account for progress to achievement. But NNA believes that the first fundamental question must be whether proper application of the objectives will lead along a reliable map to sustained universal service.

Accordingly, NNA provides comments on several of the key objectives, declines comment at this time on objectives where others have more useful expertise, and suggests that in analyzing the successes and failures of PAEA, the Commission must always have in the back of its mind the degree to which the measures protect the core mission of USPS.

NNA believes the objectives are largely being met, though some tweaks are possible. For its part, NNA cautions against dramatic alterations and intends to seek its

mailers' solutions within the context of the current law, primarily through continued work with the Postal Service and the Commission. NNA further believes that in the event the Commission determines that any of the objectives are NOT being met or that any objective fails to support universal service, a robust colloquy among the stakeholders will be needed to explore alternatives.

II. It All Has to Be About Sustaining Universal Service.

Goals are the reason objectives are created. As a famous New York Yankees manager once said, "You've got to be very careful if you don't know where you are going, because you might not get there."²

The best starting point for examination of the objectives, therefore, is to look behind the objectives to their purposes.

The Commission examined that purpose in its 2008 inquiry, Report on Universal Postal Service and the Postal Monopoly, December 19, 2008. In this report, also mandated under PAEA, the Commission revisited several key elements of the Universal Service Obligation (USO) that are relevant in this docket.

First, it found that the mission of the United States Postal Service is defined in Title 39 of the US Code.

"The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people."³

² Nate Scott, *The 50 Greatest Yogi Berra Quotes*, USA Today (Sept. 23, 2015) available at: <http://ftw.usatoday.com/2015/09/the-50-greatest-yogi-berra-quotes>.

³ 39 U.S.C. § 101(a).

Second, the Commission found that the USO has a geographic scope, providing service in “throughout the United States, its territories, and possessions; to and from foreign regions pursuant to agreements with the United States military.”⁴

Third, it found that the range of products covered by USO extends to all mail matter, and that the concept of a national service like USPS contains the assumption that it would be a “carrier of last resort.”⁵

Fourth, the Commission revisited mandates for access to facilities contained in 39 U.S.C. § 101(b), § 403(b)(3), and § 404(d), noting that Congress has both given USPS considerable flexibility in aligning access and also placed restrictions on such USPS decisions as post office closings in situations where the only closing justification is financial. The Commission did not recommend a change in this aspect of USO.⁶

Fifth, delivery mode is an element of the USO. The Commission noted that Congress has given USPS management discretion in accomplishing delivery by curbside, cluster box, PO Box and other means, and has required 6-day delivery. Though the Commission suggested Congress might further debate the days-of-delivery question,⁷ NNA notes that Congress has maintained the 6-day mail requirement.

Sixth, fair and equitable pricing is an element of USO.⁸

⁴ Report on Universal Postal Service and the Postal Monopoly (Dec. 19, 2008) at 193.

⁵ *Id.* at 194.

⁶ *Id.* at 195.

⁷ *Id.* at 196.

⁸ *Id.* at 197.

Finally, quality of service, as measured by service standards, is an integral part of USO. At the time of the report, service standards had not been adopted and measurement systems were in flux, but it is clear that the Commission considered the element of service quality to be a critical part of USO, and it reminded the Postal Service of the need to seek advisory opinions before altering this critical element.⁹

The context of PAEA as an amendment to Title 39, therefore, requires the Commission to be mindful not just of the objectives and ways to measure them, but the sophisticated integration of them into the whole delivery network that actuates universal service. To be sure, the integration and balancing acts are daunting, particularly in a decade like the one just past. Congress clearly intended the Commission, postal management, the work force and the mailing industry to work together in striking the proper integration and balance.

NNA believes the mandate of the USO is largely being met, though more slowly and less reliably than in the past. NNA sees a continuous need for adjustment and alteration, but finds no compelling mandate to dramatically alter the objectives and factors in the Act. On the contrary, the stability of the system, the need to avoid dramatic changes in either rates or service that could accelerate the losses of critical mail volumes and the mailing industry's reliance upon steady, reliable signals to plan its use of the system all combine to compel the Commission to exercise great care in its findings.

⁹ *Id.* at 198.

NNA therefore supports continuation of the stability for the mailing industry that was brought to bear by the Consumer Price Index-Urban initiated in PAEA.

III. Several Objectives are of Greatest Importance to Newspapers:

A. Objective 3: To maintain high quality service standards established under section 3691.16.¹⁰

The history of NNA's appearances before the Commission has emphasized the importance of this objective again and again. It should be no surprise that NNA's comments elevate the importance of Objective 3. Newspapers must be delivered on time to be of value to the subscribers.

At the start of the decade, service standards were an internal understanding between stakeholders and the Postal Service. In the pre-PAEA rate cases, parties were able to request copies of the standards, and heavy .dat files could be provided against which parties could measure service.¹¹ But the practicalities of doing so defeated all but the most determined, and in any event, USPS maintained that these were in fact not properly understood as enforceable standards but rather simply as expectations. PAEA changed all of that with 39 U.S.C. §3691, as the Commission was required to become involved in standard-setting and implementation.

During the PAEA decade, the Commission and Postal Service wrestled periodically with the attainment of standards and measurements. In 2008, the

¹⁰ Incorporated with 39 U.S.C. § 3622(b)(3).

¹¹ See, e.g., USPS-LR-N2006 1-2, Advisory Opinion Concerning A Proposed Change in the Nature of Postal Service, Docket No. N2006-1 (Feb. 14, 2006).

proceeding to set measurement systems was established and the Commission began to require a systematized and public reporting on service.¹²

During the decade, the Postal Service began to use the 4-state barcode, renamed the Intelligent Mail Barcode (IMb) in 2012, in combination with external measurement systems to track mail. The Commission permitted use of IMb data with caveats, noting that results would be obtained only for mail that was “within measurement” in a system that was only slowly being adopted by mailers and the Commission cautioned that the quality of results would be affected by adoption rates.¹³ For Periodicals, data submitted by large mailers to external systems operated by DelTrak and Red Tag were accepted until such time as sufficient adoption of the new USPS measurement by Periodicals could justify a switch to the IMb reporting.¹⁴

NNA commented that neither DelTrak nor Red Tag typically contained newspaper data, and that no useful data on Within County newspapers would appear in either the internal IMb or these external systems. At the time, the service performance for newspaper mail in the Within County subclass seemed reliable enough that NNA believed separate measurement of Within County mail was unnecessary.¹⁵ The Commission disagreed, ordering USPS to develop a Within County system by 2010.¹⁶

¹² Order No. 140, Order Concerning Proposals for Internal Service Standards Measurement Systems, Service Performance Measurement Systems for Market Dominant Products, Docket No. PI2008-1 (Nov. 25, 2008).

¹³ *Id.* at 9-12 and 15.

¹⁴ *Id.* at 26.

¹⁵ Comments of National Newspaper Association on Service Performance Measurement Systems (Jan. 18, 2008).

¹⁶ Order No. 140, *supra* note 12, at 27.

In 2010, the Postal Service announced that it was unable to measure service for Within County mail. It stated several reasons. First, it could not reliably differentiate Within County from Outside County pieces in the mailstream; second, data would be hard to gather given the small size of the subclass and third, the manual handling of newspapers would further complicate data collection.¹⁷

In fact, USPS had conducted a baseline study for Within County Service (with which NNA cooperated) prior to making these findings and had found on-time delivery was achieved 72.48 percent of the time, compared to 75.44 for Outside County mail.¹⁸ USPS averred that the Within County subclass defied measurement and that the scores between Within County and Outside County were close enough to justify using Outside County measurement as a proxy. The Commission was not satisfied with the finding that the subclass defied measurement and ordered the Postal Service to look into alternative proxies and to conduct a special study every 5 years.¹⁹ (To NNA's knowledge, no such studies have been done since that 2010 mandate, nor has NNA requested them.)

At the time of the service standards rulemaking proceedings, NNA's primary concern was avoiding unnecessary costs—both for USPS and for NNA's members for whom special studies were burdensome. Service for Within County mail was pretty good. Outside County mail users reported periodic problems. But NNA did not seek

¹⁷ Order No. 53, Order Concerning Postal Service Request for Semi-Permanent Exceptions from Periodic Reporting of Service Performance Measurement, Semi-Permanent Exceptions from Periodic Reporting of Service Performance Measurement, Docket No. RM2010-11 (Sept. 3, 2010) at 9.

¹⁸ *Id.* at 10.

¹⁹ *Id.* at 11.

further analysis, accepting the assertion of USPS that it could not tell Within County mail from Outside County mail without performing heroics,

What a difference a decade makes.

Soon, the Postal Service was to initiate its station and branch consolidation initiative in Docket No. N2009-1, the Retail Access Optimization Initiative in Docket No. N2011-1 and finally, the killer of newspaper service, the Mail Processing Network Realignment Changes, Docket No. N2012-1.

By the end of the PAEA decade, many small post offices had closed, taking business mail entry operations with them. Although some of these closings were in offices too small to directly impact newspaper operations, others have required continuous updating of newspaper labeling software to realign carrier routes, new critical entry times (CETs) to accommodate changing operational hours and new transportation responsibilities and costs for newspapers to reach post offices within newspaper trade areas.

Disruptions from the post office closings alone have not been plentiful, but they have occurred. More often, in remaining offices, changing CETs have forced revisions of newspaper production deadlines, required a shorter advertising sales period that has damaged precious advertising customer relationships for newspapers and in many cases, delayed delivery to subscribers that put an NNA member newspaper's relationship with subscribers in jeopardy.

The body blow to newspaper delivery, however, was the network realignment.

Since 2012, USPS has closed more than half of its mail processing facilities. The pattern has been to shut down smaller plants and require mail to travel greater

distances to more distant urban plants. This measure, intended to help the Postal Service claim greater efficiencies in highly-automated plants whose machines were suffering from downtime, drew criticism from the Commission. The PRC found that the closing plants were generally lower-cost producers and that the consolidation would lead to higher, not lower costs. In its analysis of the proposed Phase I realignment, for example, the Commission found that the mail processing cost in the plants to be closed for FY 2010 was \$413.8 million while the cost in the gaining plants would be \$470.7 million, or a 13.8% increase in operating cost.²⁰ The Commission issued many cautions about the plan, but nevertheless, the Postal Service persisted.

For community newspapers, which tend to be in less urban areas and more reliant upon the closed or downsized plants than many mailers in the Periodicals mainstream, the realignment itself delivered multiple, and often costly, challenges:

- Newspapers had to set up more mail drops through exceptional dispatch, absorbing the costs of additional transportation to reach post offices within their markets;
- Newspapers had to handle more service calls from unhappy subscribers whose newspapers were late-delivered, delivered in batches or not delivered at all;
- Newspapers had to update mailing software and in some cases newly-adopt software where none had been needed before, in order to align mail with new transportation networks.

²⁰ See, Table VI-7, Advisory Opinion on Mail Processing Network Rationalization Service Changes, Docket No. 2012-1 (Sept. 28, 2012) at 88.

And then came the switch in January 2015 to reduced service standards, from 1-2 days to 2-3 day standards for Periodicals within the SCF zones, where critical newspaper mail is handled.

All of these actions were taken at a time when publishers' own revenues were threatened by the recession and when digital options were luring away advertisers who could see more immediate delivery online. For survival, publishers trimmed staffs, froze salaries, furloughed employees without pay and increased the workload on existing personnel. On top of all of that, they had to find the resources to hang onto subscribers and build new, usually unprofitable, digital alternatives. Meanwhile, USPS went through its tortured adaptations.

Impacts were widely felt. NNA's then-president John (Chip) Hutcheson reported to the Senate Committee on Homeland Security and Governmental Affairs in 2016²¹ that member newspapers had lost business because of the USPS changes. He reported results of an NNA member survey:

- 92.5 percent of newspapers have experienced problems reaching readers on time with their Periodicals newspaper;
- 40.3 percent reported delivery problems with First-Class or Priority Mail;
- 49.2 percent attributed the problem to a closed or downsized plant; 44 percent said they didn't know where the problem arose, but they have a problem;

²¹ Testimony of John (Chip) Hutcheson III, President, National Newspaper Association Before the Senate Committee on Homeland Security and Governmental Affairs (Jan. 21, 2016) available at: https://www.hsgac.senate.gov/search/?q=Hutcheson&search-button=Search&access=p&as_dt=i&as_epq=&as_eq=&as_lq=&as_occt=any&as_oq=&as_q=&as_sitesearch=&client=hsgac&sntsp=0&filter=0&getfields=&lr=&num=15&numgm=3&oe=UTF8&output=xml_no_dtd&partialfields=&proxycustom=&proxyreload=0&proxystylesheet=default_frontend&requiredfields=&sitesearch=&sort=date%3AD%3A%3Ad1&start=0&ud=1

- 53 percent experienced a problem reaching core-market readers on time—either within their county or within the market but outside the county; and

- 79 percent described the Postal Service as critical to their survival.

Whether these impacts upon newspapers serving small towns were visible through USPS service measurements is doubtful. But even the official and public measurements for Periodicals reported to the PRC for the Annual Compliance Reports were pretty grim:

FY2009- 73.7% on time ²²

FY2010- 76.7% on time ²³

FY2011- 75.5% on time ²⁴

FY2012- 68.7% on time ²⁵

FY2013- 82.1% on time ²⁶

FY2014- 80.9% on time ²⁷

FY2015- 77.6% on time ²⁸

FY2016- 83.7% on time ²⁹

Objective 3 does not require high quality service, ironically enough. It requires only high quality standards. Newspapers are adjusting to the standards, in expecting slower delivery. But it has been the actual service, far outside standards, that has

²² Annual Compliance Determination Report, Fiscal Year 2009, ACR2009 (Mar. 29, 2010) at 55.

²³ Annual Compliance Determination Report, Fiscal Year 2010, ACR2010 (Mar. 29, 2011) at 67.

²⁴ Annual Compliance Determination Report, Fiscal Year 2011, ACR2011 (Mar. 28, 2012) at 74.

²⁵ Annual Compliance Determination Report, Fiscal Year 2012, ACR2012 (Mar. 28, 2013) at 57.

²⁶ Annual Compliance Determination Report, Fiscal Year 2013, ACR2013 (Mar. 27, 2014) at 112.

²⁷ Annual Compliance Determination Report, Fiscal Year 2014 (Mar. 27, 2015) at 110.

²⁸ Annual Compliance Determination Report, Fiscal Year 2015 (Mar. 28, 2016) at 142.

²⁹ United States Postal Service FY2016 Annual Compliance Report (Dec. 29, 2016) at 69. (Compliance Determination Report Not Yet Completed).

presented serious and destructive challenges to the industry. Yet, as the data show, the service is slowly improving for the Periodicals class overall.

The critical issue for community newspapers is whether the actual service data capture newspaper mail in sufficient quantities to be useful. Whether the improving service scores are actually detecting the quality of service in rural areas, where many small newspapers rely upon the mail, remains to be seen. More likely, the volumes in those areas are small enough that their delivery scores are being hidden by the much larger urban area volumes. That is why NNA has been urging for several years now that a separate report on rural mail is needed.³⁰ Absent structural changes in reporting, NNA does not believe useful data will be available and until data are useful, there is little point in attempting to seriously address rural delivery problems. But NNA believes the Commission is aware of many ongoing efforts at USPS as well as potential mandates in anticipated legislation that will bring more rural mail service data to light. When such data are reliably produced, NNA urges incorporation of a metric to track actual rural service data into the Postal Service's Annual Compliance Reports as well as into the Commission's Periodic Reports on the PRC website.

While awaiting better data, NNA focuses its attention on repairing problems. Since the network realignment, NNA and the Postal Service have worked together on concrete steps:

1. Standing up service hubs in locations where plants were closed, to enable newspaper mail to be cross-docked as transportation carrying mail to and from local post offices is available. NNA urged the creation of hubs in its

³⁰ Comments of National Newspaper Association, Service Performance Measurements for Market Dominant Products, Docket No. PI2015-1 (Mar. 26, 2015) at 9.

comments to the Commission in Docket No. N2012-1.³¹ This practice avoids unnecessary hauls to distant plants.

2. Carrying out occasional Kaizen studies with USPS to identify best practices in mail preparation and plant handling. Attached is a description of recent studies from NNA's newspaper, Publishers' Auxiliary.³²
3. Working with USPS to bring more newspapers into measurement by IMb so real-time census data can be captured.
4. Requesting of the Commission and USPS that the data relating to rural delivery is pulled out of the measurement statistics. Given the disparate impacts of network realignment upon smaller cities that NNA's members serve, the regular reporting of rural on-time delivery is critical. Although newspapers are not well represented yet in IMb measurement, First-Class mail is highly measurable, and critical to small towns. NNA believes that once gaps in the service network are detectable for First-Class mail with sufficient measurement systems, those can be repaired and community newspaper delivery will benefit through better cross-docking and local transportation schemes on the First-Class ground transportation network.

In total, Objective 3 has perhaps been met in the letter of the law, in that reasonably high quality standards exist, though the intention to mandate high quality service attainment has not been met for Periodicals nor for newspapers as participants in this mail stream. More must be done to realize the spirit of the objective, which

³¹ Comments of National Newspaper Association, Mail Processing Network Rationalization Changes, Docket No. 2012-1 (Apr. 24, 2012) at 13-14.

³² See Publishers' Auxiliary article attached.

actually was about service attainment and not just the setting of standards. But material changes within the PAEA mandate are not the answer. What is needed is consistent and purposeful attention to details by postal management and workforce, an ability to create small solutions in places where small plants once existed, and the Commission's recognition that it really should know more than it does about rural mail.

In summary, NNA does not recommend a change in the objective at this time. It does urge the Commission's attention to continuous improvement in overall Periodicals service attainment, periodic examination of the problems exposed by gaps in measurement and, most emphatically, getting on with the design and publication of a rural measurement system. NNA also does not recommend that an additional Within County mail study is needed unless the Commission determines that significant rate or mail preparation changes are needed to address the class's cost coverage. In the event the Commission so determines, NNA believes a more thorough dive into the real story about newspaper mail is necessary.

B. Objective 1: To maximize incentives to reduce costs and increase efficiency.

The Commission asks whether the following incorporates the intention of the objective:

A system achieving Objective 1 uses available mechanisms, such as flexibility under the price cap, pricing differentials, and workshare discounts, to the fullest extent possible to incentivize the reduction of costs and increases in operational and pricing efficiency.³³

³³ Order No. 3673, Advance Notice of Proposed Rulemaking on the Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products, Docket No. RM2017-3 (Dec. 20, 2016) at 4.

This objective's proposed definition could be improved in three ways. The first is that its vector seems to direct cost-savings initiatives entirely toward mailers and not toward incentives for the Postal Service to more creatively deploy the tools and human resources that it has. Adding in an element to encourage continued improvement on the postal side could encourage a more consultative process that involves the mailers, management, regulators and workforce to identify and achieve efficiencies while preserving service.

Second, the objective could profitably incorporate a greater focus upon opportunities for smaller mailers to improve their operations and for the Postal Service to design solutions for them. As is, the application of the objective follows the traditional path toward economy of scale, as large industrial operations tend to do, when sometimes the achievement of the USO requires the Postal Service to think small as well as large. "Small" does not necessarily mean "costly." It may mean simply that the Postal Service should seek to tailor its workforce, transportation network and processing operations to small volumes that may benefit from handling closer to home, as they were before network realignment. Things like use of hubs, hiring of smaller trucks or even vans, and use of casual allied labor to transfer containers from one truck to another are the sorts of things that would seem logical in pursuit of service.

Third, best available data should be required if the objective is to drive changes in rates and service availability.

1. Opportunities for both the Postal Service and Newspaper Mailers remain.

For mailers, NNA wants to encourage opportunities in the Within County subclass, where smaller mailers in more rural areas may be incentivized to take on more work and where the Postal Service may provide opportunities for both the workforce and the stakeholders by applying smarter systems.

It is important to understand the role the Within County subclass plays within the postal system.

Within County mail subclass is the primary postal product of choice for community newspapers. It enables publishers to create efficient sorts and bundles, drop bundles at a local office without a container, make additional distributions through exceptional dispatch to small satellite offices without having to create additional entries or postage payments and, if qualified, present mail to a delivery office in off-hours while making postage payments electronically and backing up the entries with documentation for the BMEU after the mail has been handled. A subclass protected by statute in former section 39 U.S.C. § 4358, Within County carries a storied history of creation during the development of the American frontier. Members of Congress sought to create local media to serve such needs as public notice of homestead claims, advertisement of goods for exploring parties and the development of small towns across the Louisiana Purchase with news and information for newly-settled citizens. The subclass comprises more than local newspapers, of course. It includes city magazines, church newsletters and even some large publications. Eligibility for its use is restricted to publications with

primary distribution with the county of publication or those with circulations under 10,000.³⁴

The USPS billing determinants tell the story of an increasingly efficient subclass. The use of carrier route sorting has increased and so have DU entries. In later years, mailers have been encouraged to apply Full-Service Intelligent Mail Barcodes to their mail, and a surprising 20% of the volume now carries a FS-IMb—surprising because the absence of automated machine sorting means the mailers so far obtain little useful data for their trouble.

| Year | Total Pieces | % DU Entry | %CR | %IMb use |
|------|--------------|------------|--------|----------|
| 2008 | 859,268,411 | 38.19% | 80.15% | N/A |
| 2016 | 534,172,006 | 47.76% | 82.68% | 20.12% |

Still, the entire Periodicals mail class has suffered the ignominy of failing to cover its costs for much of the past decade.

The principle cause of this lapse is easier to diagnose than to fix: postal costs have gone up faster than revenue.

Volumes have been written on the topic of the under-water class. The Commission has itself devoted significant resources to examining the causes of the inability of the mail pieces to cover costs, but has wisely deferred punitive postage increases on the grounds that the mail provides the educational, cultural, scientific and

³⁴ 39 U.S.C. § 3626(g)(1-2).

informational value spelled out as one of the factors for consideration in 39 U.S.C. § 3622.

Both the subclass and the Outside County subclass could be more efficient as well as effective for newspapers than they are—but getting to that solution requires a change in mindset by the Postal Service and more work by the industry to follow clearer pricing signals.³⁵

For example, as post offices have closed and mail processing plants have consolidated, newspaper mailers are driven by service imperatives to provide more private transportation to small post offices within their trade areas. Publishers do that work for service reasons. The rate schedule offers a .5 cent incentive for Within County DDU entry, but nothing further for private hauling to smaller post offices within a local post office's reach, even though a DDU discount is available for similar hauling outside the county. The pricing structure could do more to encourage DDU entry.

The NNA President Matthew Paxton IV, publisher of the News-Gazette, Lexington, VA., for example, now hauls bundles of his weekly newspaper 40 miles north of his town to Staunton, VA. The rate schedule provides only slim incentives for that worksharing. The objective does not operate to encourage him to contribute to USPS efficiency in this way. He does the extra hauling to improve service. But he operates a small family-owned operation that can afford to take the long view of his company's needs. A more corporate-oriented and metrics-driven corporation often does not have the luxury for this discretionary investment. Instead, it will use postal labor and

³⁵ NNA sometimes has to remind even those in the mailing industry that publishers do not see their primary purposes as mail creators, but gatherers and timely distributors of news. Hence, change in the industry takes time to capture the attention of time-stressed managers.

transportation, accept the inevitable slow service and begin looking for ways to get out of the mail.

The installation and adaptation of hubs has helped to solve these mid-market delivery issues to some degree, but the availability of them is not well known either within industry or within post offices where most small newspapers enter mail. These hubs existed before network realignment. But as consolidation forced longer hauls for Outside County mail, it took the afore-mentioned testimony by NNA's Postal Committee Chairman Max Heath to begin the thought process for standing up transit or service hubs in the locations of the closing plants. If that notion had been advanced by the Postal Service at the outset of its planned consolidations, much heartburn, backfilling and business loss could have been avoided. But nothing in the objective encourages this sort of planning on the behalf of smaller mailers. Nor does it necessarily mandate or measure cost-efficient behavior at the hubs. NNA does not know, for example, whether transportation options moving through hubs consists of partially-full semi-tractor trailers or tightly-packed but smaller vans. NNA does not know whether the manual labor needed to transfer the containers through the cross-docking at the hubs is priced at the most efficient levels, uses casual labor or higher-priced personnel, and nothing in the objective encourages this examination. It is difficult for a small organization to take deep dives into available data to answer these questions, but if the objective is intended to be self-executing, its application should not require the intervention of advocates. Finally, the objective has failed to produce a pricing proposal that clearly does permit even smaller mailers—perhaps only smaller mailers—to contribute to cost reduction. That contribution would come through increased use of flats trays (tubs).

The Commission first recognized the value of these flats trays in Docket No. R2006-1, accepting testimony of USPS Witness Marc McCrery about the benefits both to the Postal Service and to mailers from the use of these trays.³⁶ In that docket, the Commission accepted a modified version of an entirely new structure for Periodicals rates, drawing from the expertise of both intervenor Time Warner and the Postal Service, to introduce container charges. Considerable testimony was accepted on the desirability of greater use of pallets for co-mailing and the unfavorable aspects of sacks. NNA objected to the container charge on flats trays, arguing that no cost studies had been carried out to justify the level of cost assessment. The Commission agreed, saying it was “inappropriate” to apply a sack charge to flats trays.³⁷ Yet the charge was indeed implemented and it has remained to this day. Fortunately, NNA believes that its continued request for such consideration is being seriously considered by the Postal Service, at long last. But if such relief were to come to pass, the credit would go to postal management, and not to the prompting by the objective. It has been, after all, 11 years since the container charge entered the rate structure.

The use of the hubs is another topic where a better focus on efficiencies available to smaller mailers might improve cost management. The value of hubs took on an intense management focus with the installation of Postmaster General Megan Brennan at USPS, and has continued to develop under her leadership. Along with these service opportunities have come other initiatives to keep non-machinable mail from making unnecessary trips to large processing plants. One barrier has been the difficulty

³⁶ See, Postal Rate and Fee Changes, Opinion and Recommended Decision, Docket No. 2006-1 (Feb. 26, 2007) at 326-27.

³⁷ *Id.* at 328.

of stacking flats trays in vehicles. In smaller trucks and vans, the lidded and stacked trays “cube out” much faster than sacks—both in mailers’ and postal transportation-- which tends to push the system back to the more costly sacks. NNA is working presently, for example, on an experiment to permit the nesting of unlidded flats trays in small trucks and vans so more of them can be loaded into limited cargo capacity, and thereby encourage a shift from sacks into flats trays. But until Brennan’s focus on service as top priority and NNA’s continued requests for attention to smaller mailers, these initiatives have been slow to develop and are only now, after nearly 6 years, coming to pass. If the objective was intended to incentivize this sort of behavior prior to PMG Brennan’s tenure, it failed.

NNA has engaged with postal management in microscopic examinations of some small newspaper operations through a process of continuous improvement or Kaizens, headed by USPS operational managers Dane Coleman and Paul Mitchell. Much has been learned from these processes, including alterations in newspaper mailer behavior and tweaks to existing transportation, induction and handling operations in central plants. Industry lessons have been incorporated into NNA’s training programs. The operations headed by Coleman and Mitchell have become more adept in identifying the most common snags in operations. These colloquies, however, have been driven by Brennan’s shibboleths to provide high quality service, and by NNA’s perpetual quest to make the mail usable for those reliant upon the USO. Whether the objective either encourages such work or quantifies the benefits is questionable.

2. The availability of real data on Within County and newspaper mail is critical if sweeping structural or rate changes are contemplated in the next generation of PAEA.

The culmination of this industry-USPS collaboration escapes the attention of the Commission except when NNA provides information that is inevitably questioned as “anecdotal.” Despite NNA’s attempts to educate management and regulator on its mail, the fact is that little systemic data on newspaper mail is available. Even for Within County Mail, it appears the historic temptation to use a wide array of proxies to measure costs continues to frame the context in which the regulator and USPS management see this small subclass. The Postal Rate Commission also questioned the accuracy of the volume data of this subclass, concluding the final cost-of-service case by taking an average of 4 years of volume data in place of the Postal Service’s sampled data from many rural post offices.

With the greater use of PostalOne! systems, it is conceivable that the volume data are now more accurate, but, to NNA’s knowledge, the question has not been explored during the PAEA decade. So, Within County is believed to be underwater, but is it? NNA is inclined to believe that heavily carrier-route sorted, DDU-entered newspaper mail is far closer to cost coverage than the statistics show, but truthfully, no one knows for sure. In the next PAEA decade, sanctions for failure to cover cost may be considered, but if so, the Postal Service must be able to present actual data for a subclass that brings educational, cultural, scientific and informational value to the mailstream.

C. Objective 5: Financial sustainability for USPS.

NNA has been among the first to accept the necessity of a one-time, Congressionally-mandated rate increase that amounts to about half of the exigency rate instituted in Docket No. R2013-11.

Although NNA first opposed that exigency assessment because of the disincentives it offered to the Congressional process and the burden placed upon recession-challenged publishers, the pain wrought from the network integration compelled the industry leadership to determine that a limited relaxation of the cap was warranted to avoid future network constriction. In his testimony to Congress in support of the iPOST Act, S2051, NNA's Hutcheson said the association had made a difficult decision to support legislation that would have restored a portion of the exigency money through Congressional action. He said:

"In many of our communities, businesses have not ridden the wave of economic recovery after 2009. Money is extremely tight. Community newspapers have experienced staff layoffs, furloughs, workforce cuts and other very painful retrenchments. Some postage money back into our pockets would be very welcome.

But we recognize that the exigency money was principally responsible for USPS's positive net earnings in 2015. Our own Periodicals mail class—which is supposed to operate at break-even—cannot produce a positive contribution and in fact struggles to get back to a point where we can cover our costs. Yet if there are service cuts and more of our mail goes away as a result, the problems of the Postal Service deepen and we are faced with spiraling reductions of service, greater financial losses to the economy and USPS, and an increasingly desperate situation where USPS is going to need a taxpayer bailout to cover the costs of existing obligations to its retired workforce.

Thus, our board of directors voted last fall to support legislation that permits the Postal

Service to keep this \$1 billion in its rate base, so long as further service cuts can be avoided. We do not wish to convey by our support that we think further exigency increases would be acceptable.”³⁸

Hutcheson’s decision was based upon the same principle that drives NNA to urge constancy and singleness of purpose in maintaining the price cap. A one-time Congressional act for increased postage would be predictable and, although unwelcome, manageable. PAEA’s pricing mandates accomplish the same purposes. Businesses can follow annual rates of inflation, recognize the pattern of increases and plan for them.

It is to be expected that some stakeholders will argue to lift this cap to help USPS repair its unfortunately-tattered balance sheet. But in NNA’s view, the balance sheet difficulties began with the oppressive requirement in PAEA for prefunding the Retiree Health Benefits Fund. To be sure, some of the “debt” is not purely of that source. Some is from the recession, and likely from mail diversion created by the exigency, from the Postal Service’s inability to use flexing tools with its workforce as a private company would do, and from other reasons. But the prepayment unquestionably started the spiral.

The decision made by Congress to require prefunding may have looked achievable at the time, but the tragic error became apparent almost immediately after the 2006 law went into effect. In 2007, the Postal Service suffered a net loss of \$5.1 billion, almost all because of the prepayment.³⁹ By 2008, the Postal Service was paying \$5.6 billion into RHBF and staring at a resulting \$2.8 billion loss on its operational income statement, despite rate increases during the year. Without the RHBF payment, it

³⁸ Hutcheson Testimony, *supra* note 21, at 12.

³⁹ United States Postal Service FY 2007 Annual Compliance Report (Dec. 28, 2007) at 1.

would have seen a \$2.8 billion ‘profit.’⁴⁰ The following year, Congress adopted Public Law 111-68 that forgave about \$4 billion in payments, but USPS still ended the year with a \$3.8 billion loss.⁴¹ By FY 2010, the Commission was issuing doomsday warnings:

“It is clear that the Postal Service is on a downward financial path and faces structural problems that have eroded its financial stability and placed its ability to fulfill its universal service obligation at risk.”⁴²

In FY 2016, the Postal Service reported a \$55 billion deficiency, yet had an operating profit of about \$600 million. Most of its negative asset value was the result of the RHBF decision. Looking just at the revenues and costs of market-dominant mail in FY2016, a healthy core enterprise is visible, showing a net ‘profit’ of \$22 billion.⁴³ All of the other losses stemmed from other sources besides the actual cost of delivering market dominant mail.

How concerned should the regulator be with the deficiency?

NNA suggests that forcing draconian measures to improve the balance sheet is likely to have unintended consequences. First, it will persuade Members of Congress that no legislative relief is necessary to relieve the pain created by pre-funding. The Commission may take notice that Congress avoids postal reform except when postal reform becomes absolutely necessary.

Second, a plump balance sheet tempts future legislators to load more costs onto the system for the same reason they created pre-funding: to improve a budget score for the federal government.

⁴⁰ United States Postal Service FY 2008 Annual Compliance Report (Dec. 29, 2008) at 1.

⁴¹ United States Postal Service FY 2009 Annual Compliance Report (Dec. 29, 2009) at 5.

⁴² United States Postal Service FY 2010 Annual Compliance Report (Dec. 29, 2010) at 1.

⁴³ FY2016 CRA Report, USPS-FY2016-1, United States Postal Service FY 2016 Annual Compliance Report (Dec. 29, 2016).

Third, an attractive financial statement attracts advocates of privatization, in a misguided desire to push federal assets into a taxable private sector.

Congress must accept responsibility for its constitutionally-mandated federal service. NNA notes with appreciation that the quest to preserve Saturday mail service has been supported by many members of Congress.⁴⁴ Less eager, however, have the solons been to correct the error of the RHBF prepayment. The introduction of postal reform legislation in the 115th Congress marks the fourth Congress in which an attempt to lift the awesome and unfair burden of prepayments has been filed. Yet despite wide agreement among many, though not all, stakeholders, legislation has not succeeded. But it is very close, and the Commission should not ‘help’ Congress avoid the need to finish the job by making mailers shoulder the burden of erasing balance sheet losses.

NNA is a member of the Coalition of a 21st Century Postal Service (C21), which has diligently been striving to overcome the blocks in Congress to achieving some financial relief for the Postal Service. Like many C21 members, NNA fears that the easiest path to resolving the logjams is simply to return to the old days when price increases were whatever they were, designed to give the Postal Service a break-even status regardless of costs every three years. NNA’s own operating budget was often crippled by the mere participation cost in the regulatory discussions of those pricing strategies.

An expectation that eliminating price stability and solving the Postal Service’s problems by shifting the primary burden back to mailers is one all members of the

⁴⁴ See, for example, H.Res.12 in the 114th Congress (2015-2016) was joined by 238 co-sponsors, expressing the sentiment of the institution that 6-day mail is a part of the expectation of the USO.

mailing community fear. The likelihood that unpredictable and unwarranted price increases could hasten the loss of mail is more of a reality to those who work most closely with large mailers than NNA, but the fear of the consequences of accelerating the loss of First-Class Mail in particular is one that is shared by all who are dependent upon universal service.

C21's executive director, Arthur Sackler, expressed the concern cogently in a recent appearance before the House Oversight and Government Reform Committee:

".. it is of no comfort that the recent "exigent" surcharge imposed on the system did not result in an apparent decline of mail. First, by definition, it was a temporary surcharge so mailers could plan for and absorb it in ways they will not be able to do if faced with the prospect of significant, permanent increases. Second, mailers report that the re-expansion of the economy from the depths of the recession masked the impact of diversion from those increases. That is, companies generally were seeing gains in customers and accounts. With those added accounts, a number remained in paper, although an increasing percentage of new accounts were all-electronic. The net effect was some stasis in mail volumes. With respect, we urge you not to expect a similar result from increases in postage if they are even in the same ballpark as those projected above."⁴⁵

NNA believes its own members now have few alternatives to the mail. Certainly, for reaching readers there has never been a viable alternative to Periodicals mail. Electronic subscriptions are helping to fill some of the gaps created by slow delivery, but these are offered as a customer convenience by most newspapers and not as a viable business alternative.

In fact, with network realignment and post office closings, pressure has been placed upon newspapers to find alternatives, but in NNA's observation of its own

⁴⁵ Testimony of Arthur B. Sackler, Sackler Brinkmann & Hughes LLC, On Behalf of the Coalition for a 21st Century Postal Service (Feb. 7, 2017).

members' behaviors, publishers are more inclined to convert to the mail than from the mail. Even with the many doubts about service reliability, small daily newspapers began in the 1990s to abandon private carrier delivery and move to the mail. NNA's Heath has testified several times to this phenomenon. This trend does not render NNA's Periodicals mail as completely inelastic, because subscribers have alternatives, and they are highly prone to canceling subscriptions when mail service is inadequate. But the vicissitudes of the PAEA decade have made NNA more keenly aware of the importance of the First-Class Mail about which Sackler testifies. It is the First-Class mail that creates the transportation routes needed by NNA newspapers to make the transit or service hubs viable. It is First-Class mail that sustains the Origin-Mixed Destination transportation that provides a lifeline for small containers of newspaper mail to hitch a ride to a primary incoming sort facility. If Sackler is concerned about losing First-Class mail volumes because of pricing increases, NNA is alarmed.

Getting the objective for financial sustainability right, therefore, is critical to the outcomes in this proceeding. The Commission should not be tempted to take on the burdens of the United States government to grapple with deficiencies in its own financial balances by overly emphasizing matters like repaying the RHBF debt. Such a decision would drive higher prices for mailers and along with them, serious and sustained threats to universal service.

IV. Conclusion.

NNA addresses only three of the key objectives in PAEA, as it believes other stakeholders will provide ample enlightenment on the record for the others. NNA seeks

in its comments to provide insight into the effects upon its mail from the challenges of the PAEA decade and to comment upon both content and measure of the objectives in Title 39. NNA does not believe major revisions are needed. It seeks greater incentives for the Postal Service and mailers to address cost-efficient operational solutions. It hopes for a more comprehensive understanding of the role newspapers play both in the Periodicals mailstream and within the larger mission of universal service. It urges the Commission to strike a rational balance among the various objectives and not to permit this inquiry to turn into a rostrum for curing problems created by neither the mailers nor the Postal Service but by the Congress. NNA understands that the Commission may find one or more of the objectives lacking and may propose alternatives. It welcomes the opportunity for further comment.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Tonda F. Rush'.

Tonda F. Rush
CNLC, LLC
Counsel to National Newspaper Association
200 Little Falls Street, Suite 405
Falls Church, VA 22046
(703) 237-9801
tonda@nna.org
March 20, 2017